

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

MARCH 4, 2009

The Regular Meeting of the Council of Commissioners was called to order Wednesday, March 4, 2009 in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

12 present, 0 absent.

PRAYER

Commissioner Lee led the commissioners in prayer

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF 2/18/09

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Minutes of the Regular Meeting of 2/18/09.

ITEMS NOT ADDRESSED ON THE AGENDA

None

PUBLIC COMMENT ON ANY PUBLIC MATTER

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reported that he testified this week on the Historic Preservation Rehabilitation Tax Credit. It would raise the tax credit that is currently on the book from 5 to 20%, and it would also make the tax credit transferable. It would help out with developers that are trying to revitalize and rehabilitate these old buildings that are in these historic districts. It would really give them an incentive. I testified on behalf of the government in support. Several others testified in support and we did not have any opposition.

Last week we were successful with the NRD Trustee Council in having the Trustee Council table that There is also going to be a new Advisory Council.

The last appeals for the Fox Lawson Study have concluded. All of the employees that did appeal did receive their letters. We will be locked into this for the next couple of years.

He said that Sheriff Walsh had asked if we could move his communication up, so we are going to start off with Section VIII, Communications To Be Read and Acted upon.

Communication No. 09-149 – John P. Walsh, Sheriff, requesting time on the 3/4/09 agenda for confirmation of probationary police officer Kyle Barsness as permanent member of the Butte-Silver Bow Law Enforcement Department.

Sheriff Walsh introduced Kyle Barsness and gave a short profile on him.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 09-149 and confirm probationary police officer Kyle Barsness as a permanent member of the Butte-Silver Bow Law Enforcement Department.

SECTION I

PUBLIC HEARING

FOR THE PURPOSE OF HEARING COMMENTS ON PETITION NO. 09-1 FILED BY WHEELER FAMILY LLC TO CLOSE AND VACATE A PORTION OF THE ALLEY WITHIN BLOCK 1 OF THE STOREY ADDITION AND ABUTTING THE SPRUCE LODGE MINING CLAIM. (Petition No. 09-1 being held in the Public Works Committee) Proof of publication was noted and placed on file.

John Harrington, Building Official, told Council they have two requests back, one from Quest and one from Northwest Energy, stating that they have easements within the area to be closed.

Chief Executive Babb then opened the public hearing at 7:37PM and called for any proponents.

Bob Whelan, 2801 S. Montana, said he is here on behalf of the Wheeler family and asks that this request be approved. He showed a sketch of where the alleys were located.

There were no other proponents to come forward so Chief Executive Babb then called for any opponents. On the third and final call there being none, he then called for any opponents. Again, there was no response so he called the public hearing closed at 7:38PM.

SECTION II

PUBLIC HEARING

FOR THE PURPOSE OF HEARING COMMENTS ON PETITION NO. 09-2 FILED BY PARK STREET PARTNERSHIP, LLC TO CLOSE AND VACATE AN ALLEY WITHIN THE LIZZIE LODE AND THE COLORADO LODE. (Petition No. 09-2 being held in the Public Works Committee) **Proof of publication was noted and placed on file.**

John Harrington, Building Official, told the council that there were requests from both Quest and Northwest Energy for easements for utilities that are in there.

Chief Executive Babb then opened the public hearing at 7:46PM and called for any proponents. On the third and final call, there being none he then called for any opponents. Again, there was no response so he called the public hearing closed at 7:47PM.

SECTION III

INVITATION FOR BIDS

SEALED BIDS FOR TITLE AND LIEN SEARCH FOR 2009 COUNTY TAX DEED PROCESS. (Communication No. 09-93 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Patsy Coates, Delinquent Property Specialist, asked permission to open the bids. There were three bids:

- | | |
|-------------------------------------|---------------------|
| 1. Montana Abstract & Title Company | \$100.00 per parcel |
| 2. Summit Valley Title Company | \$75.00 per parcel |
| 3. U.S. Service Corp, Miami, FL | \$74.95 per parcel |

Ms. Coates asked to hold the bids for the County Attorney to review them. Deputy County Attorney Maffei said they should refer these bids to the Judiciary Committee who could then refer it to the County Attorney's office.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer the bids to the Judiciary Committee to report back to this council

SECTION IV

INVITATION FOR BIDS

SEALED BIDS FOR INSTALLATION OF PRECAST CONCRETE CULVERTS, SILVER BOW CREEK GREENWAY. (Communication No. 09-106 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Dori Skrukrud, Greenway District, opened the following bids:

1. Helena Sand & Gravel, Inc.	\$249,249.00
2. Smith Contracting Inc., Butte	\$234,963.00
3. Sime Construction, Bozeman	\$283,850.00
4. Jordan Contracting Inc., Anaconda	\$276,520.00
5. Burks Excavating, Burley, Idaho	\$358,869.70
6. Omdahl Excavation & Utilities	\$659,890.00
7. Western Municipal, Inc., Billings	\$483,215.00
8. W Construction LLC, Bozeman	no form and no bid
9. Advanced Earthworks, Inc., Hamilton	\$278,900.00
10. Shumaker Contracting, Great Falls	\$785,450.00
11. H & H contracting, Inc., Butte	\$345,020.00

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer the bids back to the Greenway Service District for a report back to this council.

SECTION V PUBLIC HEARING

FOR THE PURPOSE OF SOLICITING COMMENTS REGARDING THE ALLOCATION OF FUNDS FROM THE MONTANA DEPARTMENT OF COMMERCE AND TO CONSIDER A RESOLUTION THAT WILL AMEND THE FY 2008-2009 BUDGET TO CREATE BUDGET AUTHORITY FOR THE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND GRANT AWARDED TO THE CITY AND COUNTY OF BUTTE-SILVER BOW IN THE AMOUNT OF \$50,000.00. (Communication No. 09-128) **Proof of publication was noted and placed on file.**

Chief Executive Babb opened the public hearing and called for proponents. On the third and final call there being none, he then called for any opponents. Again, there was no response so he called the public hearing closed.

SECTION VI PRESENTATION COMMUNICATION NO. 09-147

Cindy McIlveen, Public Works Department, requesting concurrence to authorize the submission of project proposals to the State of Montana 2009 Natural Resource Damage Program and to request time for public comment on proposed projects.

Cindy McIlveen told the commissioners that this year they will be submitting two proposals that they normally submit every year – one is the distribution water lines that are in town to replace 17,000 feet of water line and the other grant is for the Big Hole Transmission Line. Our total grants for this year will be 4 to 6 million.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and

carried with a unanimous verbal vote to concur in the request of the Public Works Department to present the proposals to the State of Montana for the Natural Resource Damage Program as presented.

SECTION VII

CONSENT AGENDA

- A.**
1. COMMITTEE OF THE WHOLE MEETING REPORT
 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 3. JUDICIARY COMMITTEE MEETING REPORT
 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B.

COMMUNICATIONS.

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any “friendly amendments” or segregations. Commissioner Moodry called for segregation of #13, Communication 09-140.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve of the Consent Agenda, Section A, Items 1 through 4 and Section B, Items 1 through 25 with the exception of No. 13.

Segregation of Communication No. 09-140

Rick Larson, Health Officer, awarding installation of heating system at the Kelley Mine Block House to low bidder, Lockmer Plumbing.

Commissioner Moodry said this communication is before us for an award of bid and we have a claim that was presented in Finance and Budget tonight. **He then moved that Communication No. 09-140 be referred to Committee of the Whole so it can be further investigated. The motion was seconded by Commissioner Lee and carried with a unanimous verbal vote.**

SECTION VIII

COMMUNICATIONS TO BE READ AND ACTED UPON

1. 09-132 Rick Anderson, Mc Keon and Anderson, P. C., requesting information on what projects Butte-Silver Bow intends to try to fund through the Stimulus Package.

Chief Executive informed the commissioners that a copy of a letter is on their desks that Dan Dennehy and he had sent along with the 12 projects that have been submitted to the State in regards to the Stimulus Package. He went over it briefly and explained that he testified under the Government Section. He submitted to the committee, three projects.

1. Roads – his proposal was to take a portion of the money and put it into a fund such as the Gas Tax Fund.
2. Use Stimulus money for our festival economy that would help us out with trying to support the festivals where our government does have to spend dollars to make sure that these festivals take place.
3. The Arts community in projects such as what Glenn Bodish is putting together where they would rehab old buildings, where they would have manufacturing jobs such as Smart Jobs.

It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to place Communication No. 09-132 on file.

2. 09-133 Mollie Kirk, President of Butte Celebrations, requesting approval for events of the annual St. Patrick's Day Festivities.

Commissioner Palmer advised that this Communication was put on this place in the agenda because we didn't have all the paperwork that is to go along with this communication. The Council Secretary advised him that it is all in now.

It was then moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in Communication No. 09-133 and place on file.

3. 09-137 Don Kronenberger, Sr., Commissioner District 5, requesting possible placement of high power line through Commissioner District 5.

Chief Executive handed out some information that he has received from Northwestern Energy. He said he visited with Mike Cashell while he was in Helena. He asked him where people need to go for information about the placement of high power lines. Right now Northwestern is working through the environmental impact and there is a company called PPS&J. It is the company that is doing the Environmental Impact Statement. Public comment has closed, but they are still open to have the public contact them. Mike told him that the best avenue for any comments is to work through PPS&J, DEQ or the BLM. Paul Callahan is the contract person with PPS&J. He then called on Mr. Kronenberger.

Commissioner Kronenberger said he wasn't asking for anything to be acted upon tonight. He said he submitted this communication with the intent that it just be a communication. He told them that Jeff Draper has asked to come before the Commission and give an information presentation about the three possible routings of this high power line through Silver Bow County. Mr. Kronenberger has asked Northwest if they would like to have a representative present on the same night. He has as yet to get a commitment. The citizens in the district would like to come on March 25. My intention was for information only and then he intended to make a formal agenda item asking for time for Mr. Draper to give a presentation.

It was moved by Commissioner Kronenberger, seconded by Commissioner Moodry. On the question, Commissioner Frasz suggested that a representative of PPS&J be also invited her to answer questions. The motion passed with a unanimous verbal vote.

At this time, Claudia Rapkoch with Northwestern Energy came forward and said they are currently working through schedules right now with PPS&J, the Montana Department of Environmental Quality and the BLM because there is more to it that just Northwestern Energy. We are currently trying to work through their schedules now for the 25th, but we haven't completed that yet.

4. 09-149 John P. Walsh, Sheriff, requesting time on the 3/4/09 agenda for confirmation of probationary police officer Kyle Barsness as permanent member of the Butte-Silver Bow Law Enforcement Department.

This communication was dealt with at the beginning of the agenda.

SECTION IX

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

1. COUNCIL RESOLUTION NO. 09-14

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE PETERSEN MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION X

ORDINANCES AND RESOLUTIONS – SECOND READING

1. COUNCIL BILL NO. 09-2 ORDINANCE NO. 09-2

AN ORDINANCE AMENDING ORDINANCE NO. 178 AND TITLE 16, CHAPTER 16.04 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); AMENDING THE BUTTE-SILVER BOW SUBDIVISION REGULATIONS; AMENDING SECTION 10: DESIGN STANDARDS, B. LANDS UNSUITABLE FOR SUBDIVISION, F. BRIDGES AND CULVERTS, SUBSECTION 2, G. STREETS AND PRIVATE ROADS, SUBSECTIONS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 AND SECTION 11, REQUIRED IMPROVEMENTS, B. STREETS, SUBSECTION 4 STREET SURFACING, C. SIDEWALKS, SUBSECTION 1. AND SUBSECTION 5, H. TRAFFIC CONTROL DEVICES, SUBSECTION 2, K. FIRE PROTECTION, L. SPECIAL STANDARDS FOR SUBDIVISIONS PROPOSED IN AREA OF HIGH FIRE HAZARD, AND CREATION OF APPENDIX A, FIRE PROTECTION STANDARDS; PROVIDING FOR THE REPEAL OF ALL PARTS OF ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a roll call of 12 yeas and 0 nays to place Council Bill No. 09-2, Ordinance No. 09-2 on second reading and passed having been deemed fully read at length.**

SECTION XI

ORDINANCES AND RESOLUTIONS - FINAL READING

1. COUNCIL BILL NO. 09-1 ORDINANCE NO. 09-1

AN ORDINANCE AMENDING SECTION 4 OF THE ORDINANCE NO. 204 AND SECTION 10.40.050 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “SPEED LIMIT;” ESTABLISHING A 35 MPH SPEED LIMIT BEGINNING AT THE INTERSECTION WITH HARRISON AVENUE AND CONTINUING WEST ALONG HOLMES AVENUE TO THE INTERSECTIONS WITH ROWE ROAD AND CONTINUING NORTHWEST ON ROWE ROAD AT 300 FEET NORTH OF THE INTERSECTION WITH LEXINGTON AVENUE, AN APPROXIMATE DISTANCE OF 1.3 MILES AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a roll call vote of 12 yeas and 0 nays to place Council Bill No. 09-1, Ordinance No. 09-1 on final reading and passed having been deemed fully read at length**

2. COUNCIL RESOLUTION NO. 09-11

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE TO BE EXPENDED IN THE LAW ENFORCEMENT AGENCY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 09-11 on final reading and passed having been deemed fully read at length.**

3. COUNCIL RESOLUTION NO. 09-12

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE NATURAL RESOURCE DAMAGE PROGRAM TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE TO CONTINUE WORK ALONG THE SILVER BOW CREEK GREENWAY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer, seconded by Commissioner Lee, and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 09-12 on final reading and passed having been deemed fully read at length.**

4. COUNCIL RESOLUTION NO. 09-13

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE ENVIRONMENTAL PROTECTION AGENCY TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE TO PROVIDE EQUIPMENT AND FINANCIAL SUPPORT TO THE GREENHOUSE NURSERY – HARDENING FACILITY ON THE MONTANA TECH CAMPUS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Palmer, seconded by Commissioner Lee, and carried with a**

roll call vote of 12 yeas and 0 nays to place Council Resolution No. 09-13 on final reading and passed having been deemed fully read at length.

5. COUNCIL RESOLUTION NO. 09-15

A RESOLUTION RELATING TO \$3,000,000 GENERAL OBLIGATION BONDS SERIES 2009 DETERMINING THE FORM AND DETAILS, AUTHORIZING THE EXECUTION AND DELIVERY AND LEVYING TAXES FOR THE PAYMENT THEREOF. It was moved by Commissioner Palmer, seconded by Commissioner Lee and carried with a roll call vote of 12 yeas, 0 nays to place Council Resolution No. 09-15 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner Palmer, seconded by Commissioner Lee and carried by unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 8:42 PM.

APPROVED BY THE COUNCIL OF COMMISSIONERS THIS 18TH DAY OF MARCH, 2009

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER